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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,622	09/29/2003	Tsutomu Watanabe	3005-50	2551

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EXAMINER

NGUYEN, KIM T

ART UNIT PAPER NUMBER

3713

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,622

Applicant(s)

WATANABE, TSUTOMU

Examiner

Kim Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005 and 14 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/28/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Examiner acknowledges receipt of the RCE filed on 2/28/05. The amendment on 10/14/04 has been considered. Currently, claims 1-4 are pending in the application.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 1 is rejected under 35 U.S.C. 101 because claims 1 is directed to a game software that is not limited to being embodied in a tangible medium. In this case, the claim could easily be amended to be statutory by inserting language stating that the game software being embodied in a computer readable medium.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akihiro (JP 11-347250) in view of Kazuhiko (JP 2002-253848) and Subsim Review (Silent hunter II and destroyer command) .

As per claim 1-3, Akihiro discloses a game software including producing a virtual game space with an operation character moving according to an operation of a controller (Fig. 4; abstract; and paragraph 0043); computing item distance between the character and an object (paragraph 0046); producing and outputting a predetermined sound based on the calculated distance (paragraphs 0048, 0012, 0014, and 0047). Akihiro does not disclose that the object is an invisible item and that the invisible item is obtained if the computed distance reaches a predetermined value, and Akihiro does not disclose removing the invisible item and stopping output sound when the item is obtained. However, Kazuhiko discloses an invisible item which is detected when the distance between the invisible item and the character reaches a predetermined value (paragraphs 0040 and 0030). Further, executing processing for obtaining an object when the distance between the character and the object reaches a predetermined value would have been well known to a person of ordinary skill in the art at the time the invention was made, and Subsim Review discloses removing the obtained object and allowing the player

to start or stop the output sound (pages 5-6 in the "Never Trust a Ship That was Not Designed To Sink section). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to replace the object of Akihiro with the invisible item of Kazuhiko, and to remove the object that is obtained by the player character and to stop the output sound when the object is obtained in the game of Akihiro as taught by Subsim Review in order to encourage the player plays the game by an instructing sound.

As per claim 4, refer to discussion in claim 1 above.

Response to Arguments

5. Applicant's arguments on 10/14/04 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The

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central official fax number for the organization where this application or proceeding is assigned is 703-872-9306.

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Date: June 11, 2005

A handwritten signature in black ink, appearing to read 'Kim Nguyen', with a horizontal line underneath.

Kim Nguyen
Primary Examiner
Art Unit 3713